

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ARIANNA PAULINA
MARTINEZ, ANTONIO JESUS MARTINEZ,
and IDALIA JULISSA MARTINEZ, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

KENDRA LYNN MARTINEZ-VITELA,

Respondent-Appellant.

UNPUBLISHED

April 10, 2008

No. 280403

Oakland Circuit Court

Family Division

LC No. 06-717160-NA

Before: Murray, P.J., and Sawyer and Cavanagh, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating her parental rights to her minor children under MCL 712A.19b(3)(c)(i) and (g). We affirm.

On appeal, respondent cites mistakes and delays in the assistance petitioner provided. Petitioner generally must make reasonable efforts to rectify the problems that led to adjudication, *In re Fried*, 266 Mich App 535, 542; 702 NW2d 192 (2005); MCL 712A.18f, consistent with the general policy favoring preservation of families, MCL 712A.1(3). If petitioner failed to make reasonable efforts, this may prevent petitioner from establishing statutory grounds for termination. See *In re Newman*, 189 Mich App 61, 67-68, 70; 472 NW2d 38 (1991). To successfully claim lack of reasonable efforts, a respondent must establish that she would have fared better if petitioner offered other services. *In re Fried, supra* at 543.

In the present case, there were some delays in services early in the proceedings and petitioner's caseworker was ill prepared for the termination hearing. However, respondent failed to establish that the effort was unreasonable and that greater effort would have affected the outcome. See *In re Fried, supra* at 543. Respondent failed to show she sought any assistance for domestic violence before she began using drugs and failed to explain what specific assistance she still required regarding her jaw. She also failed to explain how either not pressuring her to seek inpatient treatment or checking the conditions of the treatment center would have prevented her fall 2006 relapse or her problems submitting negative drug screens in 2007.

A petitioner must establish at least one statutory ground for termination of parental rights by clear and convincing evidence. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). In the present case, the trial court did not clearly err when it found clear and convincing evidence that respondent failed to rectify the conditions leading to adjudication and was not reasonably likely to within a reasonable time. MCL 712A.19b(3)(c)(i). She failed to consistently submit to requested drug screens and did not indicate when she would be off methadone and demonstrating a drug-free life through regular screens. The same evidence also established that respondent was not reasonably likely to provide proper care and custody within a reasonable time, MCL 712A.19b(3)(g).

When a lower court finds a statutory ground for termination, it must terminate parental rights unless termination was clearly against the children's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 352-353; 612 NW2d 407 (2000). There is no specific burden on either party to present evidence of the children's best interests; rather, the trial court should weigh all evidence available. *In re Trejo, supra* at 354.

The strength of the bond between respondent and the children, their ages, and the time they spent in respondent's care were relevant to the best interests decision. See *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004); *In re AH*, 245 Mich App 77, 89; 627 NW2d 33 (2001). Respondent's eldest daughter, who was four years old when removed from respondent's care, expressed a desire to see her mother. However, the children had not seen their mother in a year because of her failure to submit negative drug screens. Further, the children's need for permanence is also relevant to the determination whether termination is in their best interests. See *In re McIntyre*, 192 Mich App 47, 52; 480 NW2d 293 (1991). The trial court did not err when it held that termination was not clearly against the children's best interests and terminated respondent's parental rights.

Affirmed.

/s/ Christopher M. Murray
/s/ David H. Sawyer
/s/ Mark J. Cavanagh